

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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YURMAN STUDIO, INC. and YURMAN  
DESIGN, INC.,

Plaintiffs/Counter-Defendants,

- against -

ELENA CASTANEDA and EJEWELER LLC  
d/b/a OVERSTOCKJEWELER.COM,

Defendants/Counter-Plaintiffs.  
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----- X

Civil Action No. 07-1241 (SAS)(HP)  
(Action No. 1)

CARTIER, a division of RICHEMONT NORTH  
AMERICA, INC., CARTIER INTERNATIONAL,  
N.V., CARTIER CREATION STUDIO, S.A., VAN  
CLEEF & ARPELS S.A., VAN CLEEF &  
ARPELS, INC., VAN CLEEF & ARPELS  
DISTRIBUTION, INC., GUCCI AMERICA, INC.,  
and BULGARI S.p.A.,

Plaintiffs,

- against -

ELENA CASTANEDA and EJEWELER LLC  
d/b/a OVERSTOCKJEWELER.COM,

Defendants.  
----- X

Civil Action No. 07-7862 (SAS)(HP)  
(Action No. 2)

**DECLARATION OF COSTANZO RAPONE IN SUPPORT OF BULGARI S.p.A.'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

**EXHIBIT D**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x

YURMAN STUDIO, INC.,

Plaintiff/Counter-Defendant,

Case No.

07-1241

- against -

(SAS/HP)

ELENA CASTANEDA and EJEWELELLC d/b/a

OVERSTOCKJEWELER.COM,

Defendants/Counter-Plaintiffs,

- against -

YURMAN DESIGN, INC.,

Third-Party Defendant.

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March 18, 2008

10:00 a.m.

399 Park Avenue

New York, New York 10022-4690

CONTINUED DEPOSITION of ELENA CASTANEDA

VOLUME 3

COURT REPORTER:

Suzanne F. Moore, RPR, CRR

1 ELENA CASTANEDA

2 Q Anything else?

3 A No.

4 Q Is this particular marine link  
5 similar to what you've seen in thousands of  
6 other brands as well?

7 A It is.

8 Q Any particular reason why you  
9 didn't name this item after another brand  
10 besides Gucci?

11 A No.

12 Q And just to be clear, as you  
13 sit here today, you can't think of any other  
14 brands that use the marine --

15 A I'm not going to off the top of  
16 my head be guessing.

17 Q Okay. But you do know that  
18 Gucci uses a marine link, correct?

19 A Yes.

20 Q Now I'd like to show you some  
21 items that are referred to by another brand  
22 name.

23 MR. EDERER: Let's mark for  
24 identification as Deposition Exhibit  
25 130 a three page document printed off

1 ELENA CASTANEDA

2 the OverstockJeweler website.

3 (The above described document was  
4 marked Plaintiffs' Exhibit 130 for  
5 identification, as of this date.)

6 Q Showing you what's been marked  
7 as Exhibit 130, Ms. Castaneda, do you have  
8 that in front of you?

9 A I do.

10 Q Do you recognize the item that  
11 appears in that exhibit?

12 A I do.

13 Q Is that an item that is being  
14 sold on your website today?

15 A It is.

16 Q Has it been sold on your  
17 website for a period of time?

18 A I don't know what period of  
19 time, but probably.

20 Q Okay. This item is headed  
21 "Bulgari B01 inspired sterling silver ring  
22 with pave CZ diamonds." Do you see that?

23 A I do.

24 Q What is the reference in here  
25 to B01?

1 ELENA CASTANEDA

2 A It's referring to a Bulgari  
3 design.

4 Q Do you know what Bulgari design  
5 in particular it refers to?

6 A One similar to this.

7 MR. EDERER: Well, why don't I  
8 mark for identification, because I may  
9 use this in the course of the  
10 examination, a document that I believe  
11 was attached to the Complaint in this  
12 litigation?

13 Is that correct? No, that's not  
14 correct.

15 Why don't I do this. I'll  
16 represent for the record that I'm  
17 marking for identification a chart that  
18 we prepared which has an  
19 OverstockJeweler item, and what we are  
20 claiming is the infringed Bulgari item,  
21 just for ease of reference, so I'll be  
22 able to show this to the witness.

23 (The above described document was  
24 marked Plaintiffs' Exhibit 131 for  
25 identification, as of this date.)

1 ELENA CASTANEDA

2 Q Showing you what's been marked  
3 as Exhibit 131, I'll represent to you,  
4 Ms. Castaneda, that this is a chart that we  
5 put together, and it contains a photograph of  
6 an OverstockJeweler item as to which we have  
7 made a claim in this case and a photograph of  
8 a Bulgari item that is the subject of a  
9 Bulgari copyright registration that we claim  
10 has been infringed by the Overstock item.

11 Do you understand that?

12 A I do.

13 Q Now, if you go to the second  
14 page of this exhibit, you'll see on the  
15 right-hand side in the middle a photograph of  
16 the same item that we were just looking at in  
17 Exhibit 130. Do you see that?

18 A I do.

19 Q Then on the left of that you  
20 see a Bulgari item that we claim has been  
21 infringed. Do you see that?

22 A Um-hum.

23 Q Is that the B01 Bulgari item  
24 that you just referred to in your testimony?

25 A Yes.

1 ELENA CASTANEDA

2 Q And prior to the time that you  
3 published Exhibit 130 on your website, were  
4 you familiar with the Bulgari B01 item?

5 A I've seen ads for it.

6 Q In what way is your item, the  
7 Bulgari B01 inspired ring, in what way has it  
8 been inspired by the Bulgari B01 piece?

9 A It's similar in shape.

10 Q Anything else?

11 A Really it's just similar,  
12 similar shape.

13 Q Are there any other design  
14 elements besides shape that you can point to  
15 that make it similar?

16 A I mean, it's not the same  
17 material, because it's gold and diamonds, but  
18 shape.

19 Q And based on the shape of your  
20 item, that caused you to identify your item as  
21 a B01 inspired ring, is that correct?

22 A Um-hum.

23 Q Now, if you look at the  
24 description of your item that appears on the  
25 second page of Exhibit 130, I'm referring to